IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

LA.App..No. 1199 of 2002(D)

LAR.354/1997 of PRL.SUB COURT, KOZHIKODE
.....

APPELLANT: RESPONDENT

STATE OF KERALA.

BY GOVERNMENT PLEADER SMT. K.R.DEEPA
SRI.RAJAN JOSEPH, ADDL.A.G.

RESPONDENT: CLAIMANT

K.BHANUMATHI, W/O. RAVINDRAN,
PARAKUZHIYIL THAZHAM, MALAPARAMBA P.O.,
KOZHIKODE-9.

BY ADV. SRI.THOMAS ANTONY

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 16/10/2007 ALONG WITH CO NO. 144 OF 2004, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A.No.1199 of 2002 & Cross-objection No.144/2004

Dated: October 16, 2007

JUDGMENT

Kurian Joseph, J.

This is an appeal filed by the State against LAR No.354/1997 on the file of the Sub Court, Kozhikode. The claimant has filed cross-objection seeking enhancement. The acquisition is for the purpose of Calicut Bye-pass. The claimant took out a commission. The commissioner reported that the value of the property in the locality is ranging from Rs.30,000/- to Rs.60,000/-. However, without stating anything else, the advocate commissioner concluded the report that the acquired property will fetch Rs.20,000/-. It is seen that the claimant had submitted her cross-objections to the report of the advocate commissioner. The claimant had also produced a copy of the judgment in LAR No.552/1997 (Ext.A3) where the land value is Rs.30,000/- per cent. It is submitted by the claimant that atleast Rs.30,000/- per cent may be awarded in this case. The learned Government Pleader further submits that though Ext.A3 and the report of the advocate commissioner had been discussed, no reason whatsoever is stated by the Reference Court for fixing the land value at Rs.20,000/-. The prayer of the cross-objector is for fixing the land value at Rs.30,000/-. Having regard to the rival contentions as above, we are of the view that the matter requires fresh consideration by the Reference Court as to the similarity and comparability of the acquired land atleast with that of the

property covered by Ext.A3.

2. We set aside the judgment and decree in LAR No.354/1997 and remit the reference to the court below to consider the matter afresh. The parties will appear before the Reference Court on 26.11.2007 and thereafter the Reference Court shall dispose of the matter within another three months. It will be open to the parties to adduce fresh evidence regarding the comparability and similarity of the acquired land with that of Ext.A3 property. In view of the remand as above, the cross-objector shall be entitled to refund of the court fee.

KURIAN JOSEPH
JUDGE

HARUN-UL-RASHID
JUDGE.

mt/-

KURIAN JOSEPH &
HARUN-UL-RASHID, JJ.

L.A.A. No.1199 of 2002

& Cross-objection

JUDGMENT

16.10.2007